IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

L.W., by and through parents and next)	
friends, Samantha Williams and Brian)	
Williams, et al.,)	
)	No. 3:23-cv-00376
Plaintiffs,)	JUDGE RICHARDSON
)	JUDGE NEWBERN
and)	
)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff-Intervenor,)	
)	
v.)	
)	
JONATHAN SKRMETTI et al.,)	
)	
Defendants.)	

DEFENDANTS' RESPONSE IN SUPPORT OF PROPOSED AMICI STATES' MOTION FOR LEAVE TO FILE BRIEF AS AMICI CURIAE

Seventeen States have requested permission to file a brief as amici curiae. (Doc. 149.) Their motion is timely, and this Court should grant it. Proposed Amici requested permission to file their brief a mere three business days after Defendants responded to Plaintiff-Intervenor's preliminary injunction motion, and four business days (six calendar days) before Intervenor's reply deadline. That means the United States will have only one day fewer to consider Proposed Amici's brief than the typical seven calendar day reply deadline in this Court. L.R. 7.01(a)(4).

Because nothing in the Rules of Civil Procedure or this Court make the filing untimely, Private Plaintiffs trot out the Federal Rules of Appellate Procedure. Under those rules, a State does not even need to ask for permission or consent before filing an amicus brief. Fed. R. App. P. 29(a)(2). True, Defendants responded to Private Plaintiffs' preliminary injunction motion on May 19, 2023, a little over two weeks before Proposed Amici asked to file their brief. But the

proposed brief addresses the arguments of both Private Plaintiffs and Plaintiff-Intervenor. The briefing in this case has hardly proceeded like the normal months-long process in the courts of appeal. Usually in the appellate courts, Appellants would file their opening briefs on the same day, and Appellees also respond to both on the same day (often in the same filing) with a uniform deadline (known months in advance) of seven days later for amicus briefs supporting Appellees. Still, the seventeen Proposed Amici States joined together and asked to file an amicus brief before preliminary injunction briefing has concluded and within the time that would comply for an amicus brief in the appellate courts supporting Defendants' opposition to the United States' preliminary injunction motion. Fed. R. App. P. 29(a)(6). Private Plaintiffs waited a month-and-a-half after Governor Lee signed the Act to sue and then requested a speedy briefing schedule. They have even filed multiple new fact and expert declarations with their reply brief that Defendants did not have a chance to respond to. Private Plaintiffs can hardly protest delay or prejudice.

What is really going on is that Private Plaintiffs do not want this Court to consider a brief that further explains how numerous European countries disagree with WPATH, the Endocrine Society, and the AAP. The supposed "standards of care" that Plaintiffs point to are not really "based on the best available science and clinical experience" or "widely accepted and endorsed" in other modern democracies. Plaintiff-Intervenor's Mem. at 3. Those documents do not stand up to scrutiny, so Private Plaintiffs want to gag other States that have raised similar concerns about the practices of these advocacy groups and trade associations. Defendants want a full range of voices to be heard, especially if this Court is contemplating accepting Plaintiffs' invitation to second-guess the State of Tennessee's judgments.

Accordingly, Defendants ask this Court to grant the Proposed Amici's motion instead of silencing the voices of seventeen Proposed Amici States.

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ADAM K. MORTARA (BPR# 40089) Lawfair LLC 40 Burton Hills Blvd., Suite 200 Nashville, TN 37215 (773) 750-7154 mortara@lawfairllc.com

CAMERON T. NORRIS (BPR# 33467) Consovoy McCarthy PLLC 1600 Wilson Blvd., Suite 700 Arlington, VA 22209 (703) 243-9423 cam@consovoymccarthy.com Counsel for Defendants

Respectfully submitted,

/s/ Clark L. Hildabrand

STEVEN J. GRIFFIN (BPR# 40708)

Assistant Attorney General

CLARK L. HILDABRAND (BPR# 38199)

Senior Counsel

TRENTON MERIWETHER (BPR# 38577)

Assistant Attorney General

RYAN N. HENRY (BPR# 40028)

Assistant Attorney General

BROOKE A. HUPPENTHAL (BPR# 40276)

Assistant Attorney General

Office of the Tennessee Attorney General

P.O. Box 20207

Nashville, Tennessee 37202

(615) 253-5642

steven.griffin@ag.tn.gov clark.hildabrand@ag.tn.gov

trenton.meriwether@ag.tn.gov ryan.henry@ag.tn.gov

brooke.huppenthal@ag.tn.gov

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2023, the undersigned filed the foregoing document via this Court's electronic filing system, which sent notice of such filing to the following counsel of record:

COUNSEL OF RECORD	PARTY REPRESENTED	
Stella Yarbrough Lucas Cameron-Vaughn Jeff Preptit ACLU Foundation of Tennessee P.O. Box 120160 Nashville, TN 37212 Tel.: 615-320-7142 syarbrough@aclu-tn.org lucas@aclu-tn.org lucas@aclu-tn.org jpreptit@aclu-tn.org Joshua A. Block Chase Strangio American Civil Liberties Union Foundation 125 Broad Street, Floor 18 New York, NY 10004 Tel.: 212-549-2593 jblock@aclu.org cstrangio@aclu.org Sruti J. Swaminathan Lambda Legal Defense and Education Fund, Inc. 120 Wall Street, 19th Floor New York, NY 10005 Tel.: 212-809-8585 sswaminathan@lambdalegal.org Tara Borelli Lambda Legal Defense and Education Fund, Inc. 1 West Court Square, Ste. 105 Decatur, GA 30030 Tel.: 404-897-1880 tborelli@lambdalegal.org	Plaintiffs L.W., Samantha Williams, Brian Williams, John Doe, Jane Doe, James Doe, Ryan Doe, Rebecca Doe, and Susan N. Lacy	

Joseph L. Sorkin Dean L. Chapman, Jr. Kristen W. Chin Richard J. D'Amato Theodore James Salwen Akin Gump Strauss Hauer & Feld LLP One Bryant Park New York, NY 10036 Tel.: 212-872-1000 jsorkin@akingump.com dchapman@akingump.com kristen.chin@akingump.com rdamato@akingump.com jsalwen@akingump.com Elizabeth D. Scott Akin Gump Strauss Hauer & Feld LLP 2300 N. Field Street, Suite 1800 Dallas, TX 75201 Tel.: 214-969-2800 edscott@akingump.com Christopher J. Gessner David Bethea Akin Gump Strauss Hauer & Feld LLP Robert S. Strauss Tower 2001 K Street N.W. Washington, DC 20006 Tel.: 202-887-4000 cgessner@akingump.com dbethea@akingump.com Plaintiff-Intervenor United States of America Ellen B. McIntyre Rascoe Dean U.S. Attorney's Office for the Middle District of Tennessee 719 Church Street, Suite 300 Nashville, TN 37203 ellen.bowden2@usdoj.gov rasco.dean@usdoj.gov

Alyssa C. Lareau
United States Department of Justice
Federal Coordination and Compliance Section
950 Pennsylvania Avenue NW
4CON
Washington, DC 20530

Washington, DC 20530 (202) 305-2994 Alyssa.Lareau@usdoj.gov

Alyssa.Lareau@usdoj.gov

Coty Montag

United States Department of Justice Federal Coordination and Compliance Section 950 Pennsylvania Avenue NW 4CON Washington, DC 20530 (202) 305-2222 Coty.Montag@usdoj.gov

Gloria Yi

United States Department of Justice Federal Coordination and Compliance Section 950 Pennsylvania Avenue NW 4CON Washington, DC 20530 (202) 616-3975 Gloria.Yi@usdoj.gov

Tamica Daniel
United States Department of Justice
Housing and Civil Enforcement Section
950 Pennsylvania Avenue NW
4CON
Washington, DC 20530
(202) 598-9636
Tamica.Daniel@usdoj.gov

/s/ Clark L. Hildabrand CLARK L. HILDABRAND (BPR# 38199) Senior Counsel

Counsel for Defendants